

Fire Department Overtime Follow-Up Audit

December 2007



**Internal Audit Division
Office of the City Manager
City of Cincinnati**

**Mark T. Ashworth
Internal Audit Manager**

**Lauren Sundararajan
Lead Internal Auditor**

I. Introduction

The Internal Audit Division (IAD) conducted a follow-up audit of the Fire Department Overtime Audit issued January 2005. It is IAD policy to conduct a follow-up audit to ensure recommendations are being implemented.

Our review showed that the Cincinnati Fire Department has successfully implemented the following IAD recommendations:

- Added a new recruit class each year starting in 2005.
- Reviewed the distribution of Kelly Days as a means to minimize overtime.
- Changed the contract regarding compensatory accrual time and usage.
- Use 40-hour staff members to fill partial overtime when they need training.
- Changed the contract regarding three-man staffing for shift holdovers.

Audit Scope and Methodology

The 2005 Fire Department Overtime Audit had the following objectives:

- To determine the cost drivers of Fire overtime and compensatory time.
- To ensure proper controls are in place to record, analyze, and manage this time and associated costs.

The follow-up audit reviewed the 2005 audit recommendations to determine the status of these recommendations and ensure the Cincinnati Fire Department was in compliance.

The initial audit and this subsequent follow-up were conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS).

II. Status of Recommendations

Increase Suppression Staff Size

The need for and cost of overtime will remain stable or increase from 2004 levels in the first half of 2005 because minimum staffing levels and available suppression forces will not change. The Fire Department is planning for a recruit class of 30 fire fighters who will join active duty in approximately May 2005. Until that time, the problems caused by the small suppression force will only intensify as more fire fighters retire or leave the force. Although the annual average daily unit strength for 2004 is 249.0, this number has been declining monthly. Average unit strength was 249.7 in January 2004, 248.7 in April, and 247.0 in August. Thus, current staffing levels are even lower than the annual average suggests.

In determining appropriate suppression staffing, the cost of overtime must be weighed against the cost of additional staffing. A University of Cincinnati study suggested that optimal suppression size is 765, or an average daily unit size of 255. The Fire

Department believes the UC figure is somewhat low because it did not include all of the costs associated with overtime. While it was beyond the scope of this audit to do a comprehensive staffing study, Table 3 shows that an average daily staff of 251.9 in 2003 was insufficient to meet daily staffing requirements while 258.1 in 2002 was more than necessary. The midpoint between these figures is 255, which would support UC's finding as a rough guide for staff size.

Assuming that the optimal daily unit size is around 255 and current suppression size is 247, the daily suppression force is eight fire fighters short. An average daily shortfall of eight fire fighters in each unit translates to total need for 24 additional fire fighters to return overtime to more controlled levels. Based on 2004 separation rates, the Fire Department will lose an additional 5-7 fire fighters before the new forces join in 2005. The 30 fire fighters who will be added in May '05 should cover this current and projected shortfall. Once the class is added, attrition will continue and there will not be sufficient numbers to cover those who leave before *another* class is added.

Recommendation 1: Examine need for an additional recruit class in fall 2005. The Fire Department is considering another recruit class in fall 2005. These new fire fighters would join the force in approximately March 2006. The Department should carefully monitor the number of separations it experiences throughout 2005 and how many new fire fighters it needs to maintain staffing levels near optimal levels. An additional class may be necessary to prevent the large overtime spending that the Department has struggled with in 2003 and 2004. The size of a fall class should allow a sufficiently large average daily unit size based on estimated strength for 2006.

Fire Department response: The Fire Department concurs with this recommendation. The Fire Department already recommended a recruit class of at least 35 for the fall of 2005, which would graduate in the spring of 2006. This was not recommended by the Executive Budget Committee for the 2005-2006 budgets. The Fire Department's fiscal staff has made the calculations and submitted its recommendations. This is a policy decision beyond the discretion of the Fire Department. Ultimately, the question of when can this be implemented can only be answered through the 2005-2006 budgets.

Civilianizing certain support staff positions with persons possessing previous experience and qualifications would allow the return of some firefighters, fire specialists, company officers and district chiefs to be returned to suppression force functions. Moreover, this will also require a corresponding one-for-one replacement of all current positions occupied by uniformed employees to be replaced with civilians. The savings from salaries will only be differential savings but it could be coupled with savings from decreased overtime demand. The Fire Department and the Human Resources Department will need to develop the hiring qualifications for these new positions. There is a risk of uncertainty in that such a process may not produce enough qualified individuals before January 1 of 2006.

Audit Follow-up Status of Recommendation: *In 2005 there were 5 separations and one recruit class approved by the budget. The class totaled 28 and started December 5, 2004*

and graduated on May 21, 2005. In 2006 there were 16 separations and the recruit class of 31 started on January 15, 2006 and graduated on June 30, 2006. A class of 40 started on December 18, 2006. The Fire Department anticipates 17 separations in 2007.

During 2007 the Fire Department had a staffing level of approximately 827, and the additional 40 in the 2007 recruit class will increase their staffing level to approximately 867, which is above their goal of 841. In addition, motions 200510506, dated September 21, 2005, and 20060060, dated June 12, 2006; provide staffing of 841 and changes Fire's table of organization.

The increased levels of available suppression forces within the Fire Department will help with reducing overtime expenses.

The Fire Department cannot legally request fire fighters to inform them when they will be retiring; however, they do send out a form that the fire fighter completes and returns at their discretion, projecting possible retirements.

Recommendation 2: Limit suppression fire fighters placed in 40-hour positions, detailed out of suppression, or on limited duty. Until a new recruit class can relieve the tight staffing levels, the Fire Department should limit the number of fire fighters out of suppression for any reason. Fire fighters on 40-hour schedules should be reviewed to determine if any can be returned to suppression. Three fire fighters have been added to 40-hour staff since 2000, two to manage Homeland Security programs and one for Rescue One.

The Fire Department should assume that, given current staffing levels, detailing a fire fighter out of suppression for any reason will require filling that position with another fire fighter on overtime, at a cost of 1.8 times the fire fighter's straight rate. As with 40-hour positions, the Department should review fire fighters currently detailed out to determine whether any can return to suppression. It should carefully analyze the cost implications when considering detailing any additional fire fighters out of suppression.

The Department should also determine the number of fire fighters it needs on limited duty and allow only that many fire fighters to be placed on limited duty. There are some essential administrative tasks that the Fire Department needs done by fire fighters on limited duty. Currently, a fire fighter with a temporary disability has the discretion to take a limited duty assignment or sick with pay leave. The fire fighter on limited duty receives a full salary and benefits, including sick leave accrual. If a limited duty position was not available, these fire fighters would be forced to take their own sick leave to recuperate. The Fire Department suggested that the ability to take an extended limited duty assignment with no cost to the fire fighters' accrued benefits can lengthen the recovery process in some cases. Fire fighters using their own sick time would have an incentive to return to suppression as soon as physically able.

Fire Department response: The fire service has long recognized that the best, and preferred, way to safeguard the safety of our citizens is to prevent fires by discovering

what causes fires and work to educate our public that focuses on the most vulnerable segments of our community (children, senior citizens, and citizens whose mobility is restricted), develop and enforce a strong fire code for new and existing structures, carry out a strong fire prevention and life safety programs, and prosecute malicious fire setters.

Returning members assigned to addressing our city's Homeland Security will be problematic. Without a doubt, the three staff members that have been assigned to the department's Chemical, Biological, Radiological, Nuclear, and Explosive response unit (CBRNE) have more than paid for themselves. The personnel devoted to addressing the "City of Cincinnati's Homeland Security" needs have been successful in securing over \$16,000,000 to purchase much needed equipment and training for our first responders.

The Fire Department feels limited in its ability to comply with issues concerning detailed training staff. The department's training staff is overworked and needs to be increased. Firefighters currently detailed from suppression forces to the training section were assigned there after very public criticism was directed at the Fire Chief by Firefighters' Local 48 and the Law and Public Safety Committee. The Chairman of that committee directed the City Manager and the Fire Chief to immediately increase our training staff and constantly staff the Rescue 2 position, by detailing fire suppression personnel to the training section. The Fire Department complied with this set of instructions.

The Fire Department agrees with the recommendation on limited duty. A draft of new limited duty policy is under review by the Solicitor's office for compliance with the current labor contract and applicable laws. Implementation of this recommendation should be deferred until the final report from the Fire Department consultant is received.

Audit Follow-up Status of Recommendation: *There are approximately 20 fire fighters on limited duty. The Fire Department did not draft a new limited duty policy, and no support staff has been turned over to civilians. Fire is adding personnel, but not switching positions over.*

An outside firm, Tri-Data, was hired by the administration after a fire fighter was killed in the line of duty, to determine what can be done to prevent future incidents. The report was completed and the Fire Department hired Managing Partners to do an assessment on how to implement the Tri-Data report recommendations. Staffing levels were reviewed during the study.

Recommendation 3: Have an eligible recruitment list that will cover the first half of 2006. The Fire Department's staffing problems have been compounded by the inability to predict the number of retirements in the near future. It is possible that a large number of DROP participants will choose to retire when they become eligible in January 2006. On the other hand, participants may wait eight years after enrollment and retire in 2011, causing no noticeable change in January 2006. Nonetheless, the Fire Department faces the risk that an unexpectedly large number of retirements will cause a staffing shortfall with significant ramifications for overtime costs.

The current list of eligible recruits will expire on September 2, 2005. The Department should ensure that it has a list of eligible recruits in place by early 2006 that it can draw on if there are large numbers of retirements. Daily unit size should be monitored particularly closely in the first months of 2006 and if there are many retirements, the department should be prepared to quickly mobilize a new recruit class.

Fire Department response: The Fire Department agrees with most of this recommendation. The Fire Department feels that a recruit class of at least 20 should be routinely budgeted for every year, without regard to anticipated retirements. The need for a class could be reviewed and adjusted accordingly, if personnel costs or retirements dictate.

The Deferred Retirement Option Plan (DROP) has eliminated the Fire Department's ability to safely declare who will retire within a given year or biennium. Another complicating factor is the length of time that it requires to conduct an entry level examination, perform background investigations, and medical examinations cannot be coupled with the biennial budgeting process. The recruiting process takes at least seven months to select qualified candidates. Therefore, lead time is critical.

The Fire staff has long recognized the patterns of sick leave usage and developed resolute policies to deal with what appeared to be unusual patterns and possible abuse of sick leave and compensatory time usage.

In addition to the recommendation, the Fire Department strongly volunteers the idea that a new scheduling system and software with a brand new computer server are needed to track and account for all associated staffing and personnel costs. The current method, while effective, is extremely cumbersome and takes District Chiefs and other staff members away from their primary duties. This recommendation will require a new scheduling and tracking software program, a new computer server, and at least two information technology (IT) technicians/planning specialists to get this system up and running and to maintain it as a viable system. In the summer of 2004, the Fire Department requested that its capital project addressing its replacement of its current IBM AS/400 midrange server be moved up in order to address its need to replace and move it to Radcliff Regional Emergency Operations Center with its other server and its IT staff. This request was approved and the server will be ordered in June of 2005. However, the software to replace the current staffing and scheduling module is not part of the request.

The major determinants of this recommendation are the "2005-2006 Operating Budget" and the City's ability to negotiate a new labor contract with that is designed to lower costs and allow management to control costs.

This recommendation is multifaceted and will require the combined leadership of the Fire Departments Administrative, Operations, and Human Resources Bureaus. Two of those bureau chiefs will be part of the City's negotiating team. Their involvement should facilitate discussions on matters involving effectively managing overtime costs. This

recommendation is solely dependent upon contract negotiations and budgeting issues and a firm implementation date can't be provided at this time.

Audit Follow-up Status of Recommendation: *As stated in the follow-up status recommendation A1, the recruit classes over the past years have helped fire reach their staffing goal of 841. In addition, when Fire sent out the surveys to determine how many fire fighters are going to retire, about 72% responded.*

The Fire Department now utilizes CFD web scheduling that shows statistic related data.

Aggressively Manage Overtime and Comp Time Costs

The Fire Department has struggled in 2004 to manage its overtime costs and remain within its budget. As discussed above, these costs will not decrease until at least one new recruit class is added to the suppression force. To limit the impact of overtime as much as possible in the short run, the Department must accurately budget for and aggressively manage overtime costs.

At present responsibility for overtime is divided among several district chiefs. These chiefs arrange overtime and track it in a DOS system daily. Overtime reports are produced each pay period by accounting staff and conveyed to Operations. The Department's ability to analyze and monitor overtime has been hindered by a reduced accounting staff.

Part of managing overtime requires identifying sources that can be controlled or reduced. Analysis of leave in 2003 and 2004 indicates that sick days and comp time are not used with equal frequency throughout the week. As a result, overtime use is not distributed equally throughout the week, with Friday and Saturday having disproportionately high levels. Table 10 shows that in 2004 there was an average of 7.5 overtimes per tour, ranging from 4.4 on Tuesdays to 8.6 on Friday and 11.6 on Saturdays. These patterns were the same in 2003, though the values were lower. In addition to higher average values for overtime, days with the largest and most expensive amounts of overtime were disproportionately Saturdays. In 2004, all four days that required 20 or more fire fighters on overtime were Saturdays—June 19, July 3, August 14, and September 11.

Higher overtime on Saturday is caused in part by higher than average sick and comp time usage. There were 4.3 fire fighters out sick on an average day in 2004, but this figure reached 5.5 on Saturdays. Sick use was higher than average on Saturday and Sunday in 2003 and 2004. Similarly, the figures below demonstrate that comp time is taken more frequently on Friday, Saturday, and Sunday.

Table 10. Average daily overtime, sick, and comp time usage, 2003 and 2004.

	2003			2004*		
	Overtime	Sick leave	Comp time	Overtime	Sick leave	Comp time
Sunday	3.02	4.48	1.38	6.92	4.35	1.84
Monday	3.13	3.22	0.31	7.30	3.30	0.35
Tuesday	2.17	4.13	0.31	4.38	4.35	0.43
Wednesday	3.72	3.47	0.30	7.41	4.65	0.86
Thursday	3.33	3.15	0.52	6.18	3.66	0.84
Friday	4.52	3.69	1.33	8.58	4.13	1.84
Saturday	5.92	5.27	2.21	11.55	5.50	3.26
Average	3.69	3.92	0.91	7.47	4.27	1.35

* 2004 figures through September 18.

Certain days of the year around holidays or special events also had unusually high use of sick and comp time in 2004, causing a large amount of overtime. For example, on July 3 the Fire Department required 21 staff overtimes due primarily to 12 fire fighters who called in sick and 8 who used comp time. This was the highest sick leave use of any day in 2004. July 5 also required 17 overtime tours in part because of 8 staff members on sick leave and 1 using comp time. Other days with particularly high sick leave usage include January 1, September 11, and September 18, the first day of Oktoberfest.

Recommendation 4: In addition to the reports currently produced by pay period, the Fire fiscal section should analyze full-tour, partial, and compensatory time on a monthly basis in order to effectively minimize overtime costs. Staff should actively monitor average daily unit strength and average absences, comparing them to 2001 levels to determine if any of these factors is driving an increase in overtime or comp time. The report should provide comparative data from previous months so that the Department can determine if the use of any specific categories is changing. When the staff identifies increases in areas such as limited duty or detailed out of suppression, it should work with operations staff to identify and mitigate the causes of such increases. This information should be presented in a monthly report forwarded to the Chief for review.

Fire Department response: The Fire Department agrees with theory or logic behind this recommendation. A summary report could prove most helpful. Presently, the Fire Department goes beyond this recommendation by monitoring all overtime on a bi-weekly basis. This has been the policy for over four years. The fiscal section of the department already performs oversight and reconciliation during this time. It is absolutely critical that additional personnel, with budgeting and accounting background, be added to Fire Department's fiscal section. Those individuals would perform high level reviews of all personnel expenditures and staffing deployments.

The Fire Operations Bureau staff will use its current reports and sort the data into a summary format. They already capture this comparative data analysis on a bi-weekly basis. They will use their data to move this recommendation on to its next logical conclusion or step. This recommendation should be implemented by the end of February.

Audit Follow-up Status of Recommendation: *The Fire Department utilizes a variety of reports to analyze and monitor overtime usage. The following are a list of reports they use:*

- *Compare all personal services by pay period against the budget, which includes overtime.*
- *Compare overtime by pay period for actual vs. budget according to salary division and for Division 2 partial and full tour data captured separately.*
- *Compare overtime by pay period for all salary divisions from 2000 to present.*
- *Stats report by pay period that counts the number of full tours of overtime and pertinent types of unscheduled leave (swp, fmla, military, limited duty, iwp, comp time).*

In addition, per the Tri-Data report, a Senior Accountant and Accounting Technician 3 has been added to the Table of Organization.

Recommendation 5: Review the distribution of Kelly Days as a means to minimize overtime. Higher than average daily absences due to sick and comp time leave on Fridays and Saturdays contributed to higher than average amounts of overtime used on those days in 2003 and 2004. Because the Department is organized in three rotating units of equal size, it is hard to increase scheduled staffing just for these two days. One way the Department can make staff available on particular days is by reducing the number of Kelly Days. The department already uses this technique to some extent. In 2004, 32.4 fire fighters had a Kelly Day on an average day, but Saturday and Sunday figures were 29.8 and 30.8, respectively. Overtime has been below average on Sunday, Monday, Tuesday, and Thursday, with Tuesday being significantly lower than the others. Reassigning a limited number of Kelly Days to the days of greatest overtime would make available more staff at times when overtime is most likely to be needed. Since the department currently incurs overtime every day of the week, this approach would not immediately reduce overtime, but would redistribute it. As staffing levels increase and overtime levels drop, though, the department should determine the optimal number of days per week to offer given absence and overtime trends. A redistribution of Kelly Days to days with fewer absences could help lower the total amount of overtime.

Fire Department response: The Fire Department has conducted continuous, detailed analysis of the same area over the last decade and has been aware of patterned usage surrounding Friday, Saturday, Sunday, Monday, holidays, etc.

As a result, the number of Kelly Days available on Friday, Saturday, and Sunday were significantly reduced several years ago. The Fire Department cautions that the drawback with redistributing Kelly Days is that it is likely to manifest itself with increased overtime during the weekdays. Another likely outcome is that sick leave and compensatory time requests will significantly increase on Friday, Saturday, and Sunday in proportion to the reduced access to weekend Kelly Days.

Presently and in the near future, the Fire Department does not think it is a prudent action to implement the recommended Kelly Day shifts because the likely outcome will be

larger overtime spikes during the weekdays instead of the weekends. Without an increase in the suppression force complement, this solves nothing.

Scheduled leaves are selected with Kelly Days in mind and this recommendation could produce undesirable labor actions from the Fire Fighters Union. Therefore, this recommendation is best suited for the upcoming negotiations.

***Audit Follow-up Status of Recommendation:** The weekend Kelly Days have not changed; however, all additional fire fighters have been given a Tuesday, Wednesday, or Thursday Kelly Day. The Fire Department will continue to re-evaluate Kelly Days as new recruit classes join the Department.*

Recommendations for Long-Term or Contractual Changes

The recommendations above can be implemented to address problems managing overtime costs in the near future. In the long-run, the Fire Department should examine alternative approaches to minimum staffing in order to control overtime. These potential solutions could not be implemented until a new collective bargaining agreement is reached in June 2005.

Recommendation 6: Proceed with plans to conduct a staffing study to determine optimal force size and staffing model. The Fire Department's ability to limit overtime is constrained by a staffing cap of 787 fire fighters and a minimum daily staffing requirement of 186. A staffing study will determine the optimal size of the suppression staff given all related costs and the number of FTEs needed to fill one suppression position given the absentee rate. It should examine the appropriateness of minimum staffing levels given call volume, response time, and employee safety.

The study can also determine whether the current system of 24-hour tours followed by 48-hours off is the most economical and efficient way to organize the Department. Some fire departments have cut overtime by implementing alternative staffing models. In one department, fire fighters work 10-hours on/14-hours off per day. In another, three units continue to rotate on a 24/48 hour schedule with an additional unit working one day per week and covering high volume call times. A staffing study can examine whether one of these approaches would allow the department to meet minimum staffing requirements with lower personnel costs.

Fire Department response: The Fire Department agrees that a staffing study is needed so individuals making final decisions on the Fire Department's budget will have confidence that staffing is maintained at the recommended level. This recommendation should be explored by the consultant performing the comprehensive study of the Fire Department.

In the late 1970s, the Fire Department did a pilot study of 10 and 14 work schedules and found them to be ineffective, disruptive to training and good personnel management, produced increases in disciplinary matters, and generally lowered morale.

The firefighter's work hours are a negotiated item and, therefore, can't be changed unilaterally. This recommendation will have to wait until contract negotiations.

Audit Follow-up Status of Recommendation: An outside firm, Tri-Data, was hired by the administration after a fire fighter was killed in the line of duty, to determine what can be done to prevent future incidents. The report was completed and the Fire Department hired Management Partners to do an assessment on how to implement the Tri-Data report recommendations. Staffing levels were reviewed during the study. In addition, a new Executive Officer will be hired in 2007 and be responsible for analyzing optimal force size.

Recommendation 7: Recalculate sick reciprocity cost. Allowing employees to convert unused sick pay to cash should provide an incentive for employee attendance and minimizes City costs due to unpredictable absences. This reciprocity incentive is structured to provide higher compensation for additional years of perfect attendance. But FMLA provisions are preventing the sick leave incentive from working as intended. According to the Fire Department, an employer may not take any measures that can be construed as "punitive" for FMLA use. Thus, FMLA leave cannot be used to determine the employee's sick leave reciprocity ratio. Because FMLA provisions allow fire fighters to maintain higher reciprocity compensation rates, the cost of this benefit will be much higher than when fire fighters uses SWP leave more frequently. The City should recalculate sick leave reciprocity costs taking into account the implications of FMLA use.

Fire Department response: The Fire Department agrees with this recommendation. However, this approach could backfire and, therefore, should have a solid contingency plan (within the parameters of the labor-management agreement) to deal with adverse employee reactions that are likely to result from such a policy change. Of necessity, discussions on this recommendation will need to be limited to the next contract negotiations.

Audit Follow-up Status of Recommendation: Changes to the Fire Department's contract have not occurred regarding sick reciprocity cost. FMLA usage has increased significantly over the past few years, and the Fire Department question the legality of penalizing fire fighters for using FMLA. According to a memo regarding the 2007/2008 Operating Budget Submission from Robert Wright, Fire Chief, dated 8/17/06, "We anticipate an increase of \$82,000 in sick with pay buy back for 2007. There have been dramatic increases in the number of members eligible for sick with pay buy back. In 2002, 188 of the members eligible elected to sell back their sick hours compared to 279 members in 2006, resulting in an increase of 48% over the time period. This is the result of shifting leave usages from SWP to the Family Medical Leave Act (FMLA). Leave usage under FMLA does NOT impact a person's ability to sell back sick hours. In 2002, 7% of all full tour sick leave was taken utilizing the Family Medical Leave Act. In 2006, this number increased to almost 45% of all full tour sick leave used."

FMLA was passed into law in 1993 during the Clinton Administration. The purpose of FMLA was to help employees balance their work and family responsibilities by allowing

them to take reasonable unpaid leave for certain family and medical issues. Employers must give employees up to a total of 12 work weeks of unpaid leave during any 12-month period for one or more of the following reasons: for the birth and care of the newborn child of the employee; for placement with the employee of a son or daughter for adoption or foster care; to care for an immediate family member (spouse, child, or parent) with a serious health condition; or to take medical leave when the employee is unable to work because of a serious health condition.

The U.S. Department of Labor describes a “Serious Health Condition” as an illness, injury, impairment, or physical or mental condition that involves:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or*
- A period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or*
- Any period of incapacity due to pregnancy, or for prenatal care; or*
- Any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or*
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal disease, etc.); or*
- Any absences to receive multiple treatments (including any period of recovery that follows) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).*

According to Fire District Chief Ron Texter, the individual who approves all FMLA, a fire fighter only needs to take two tours off and they are eligible for FMLA. The problem is that fire fighters are taking FMLA when they have a common ailment, such as the flu. Chief Texter will approve FLMA if the fire fighter has seen a physician and has the required FMLA physician approval form. In the past Chief Texter argued and arbitrated the fact that the flu is not considered FMLA; the arbitrator ruled against the City.

IAD has met with Human Resources (HR) and discussed the issue of FLMA usage in the Fire Department. HR is currently reviewing FLMA both at Fire and City wide.

Recommendation 8: Balance compensatory time accrual and usage. The 2003 contract increased from 8 to 12 hours the amount of overtime that fire fighters could receive as comp time or as cash overtime but it did not change the blocks in which they can use it. Giving fire fighters the ability to use time in smaller blocks than they accrue it has allowed comp balances to grow. Negotiators should recognize that generally any contractual change that grants staff members more time away from the workplace will increase staffing and overtime costs.

Fire Department response: The Fire Department agrees with this recommendation. It feels comp-time should be taken in 24 hour increments only. However, discussions on this matter will have to be part of the upcoming contract negotiations. In the future contracts should avoid liberal interpretations on the use of compensatory and follow more conservative interpretations on how members can use accrued compensatory time. The language needs to be tightened up so the interpretation and application of the contract provisions are not the generators of troublesome employee actions.

Audit Follow-up Status of Recommendation: *The new contract for 2005-2007 has helped significantly with this issue. As a result, it gave a limit on how many fire fighters can be off on a single day. The limit is now 25 (vacation, holiday and comp time) and does not include FMLA or military; therefore, comp time has no greater value than vacation or holiday time. In addition, the new contract states that all overtime worked in connection with reimbursable events or reimbursable training shall be compensated in monetary overtime rather than compensatory time. Also, to use compensatory time, members shall request from the District Chief no greater than twenty-one days and no less than seventy-two hours prior to the beginning of the tour of duty of the requested leave. It was added that compensatory time must be used in either twelve or twenty-four hour increments. Compensatory time shall only be requested in time slots from 0700 hrs to 1900 hrs or 1900 hrs to 0700 hrs. Members may request either or both of the time slots available. Further, the cap for initial vacation/holiday request remains at 22 per day; however, additional vacation requests has cap of 25 and ALL compensatory time is included in this cap.*

Suppression staff elected to earn comp time 12.5% of the time in 2006 vs. over 31% in 2005. In 2005 suppression staff earned 19,313 hours of comp time and used 20,881 hours, and in 2006 the staff earned 6,073 hours in comp time and used 4,192 hours. This is a significant decrease and shows that the new contract agreement has greatly helped decrease compensatory time.

Recommendation 9: Apply the limitations on vacation and holiday leave to comp time use. The current contract in many ways makes comp time the most valuable type of leave available to fire fighters. No more than 22 suppression staff may take vacation and holiday leave on any one day, a policy designed to ensure sufficient staffing levels and control the amount of overtime needed. The current contract, however, allows the Fire Department to turn down a request to use comp time only on major holidays or if the request is not made 72 hours in advance. Consequently, a junior fire fighter may not have sufficient seniority to schedule a vacation or holiday at the most desirable time of the year. By using comp time, though, the fire fighter will be able to take that day off regardless of how many other fire fighters already have planned absences.

Table 10 above demonstrates that comp time is used disproportionately on Friday, Saturday, and Sunday. The 21 days of greatest comp time use in 2004 were on one of these three days. Thirty-one of the top 34 days were also on these days. All but one of these 31 days required overtime staffing to fill all the vacancies created by employees

taking comp time. Saturday, July 3 is again particularly illustrative. The Fire Department required 21 overtime tours on this day, at a cost of over \$20,000. In addition to 12 fire fighters out sick, eight others were absent using comp time, creating nearly all of the staffing shortage.

The current contract provides no way for the Fire Department to control comp time usage, allowing particularly severe and expensive staff shortages on certain days. To help mitigate these occurrences, comp time use should have restrictions similar to those put on vacation and holiday absences. The Fire Department should place a cap on comp time use so that total absences for vacation, holidays, and comp time do not exceed a set number, such as 23 or 24. This would force a more even distribution of comp time usage throughout the week. It would also prevent particularly egregious and expensive staffing shortfalls on holidays and other desirable days off.

Fire Department response: The Fire Department essentially agrees with this recommendation. It feels that partial leave requests exceeding 12 hours (all types) and unscheduled leaves (SWP, IWP, FMLA, Limited Duty, Comp-time, Military, etc.) should be used in calculating the “daily quota” before other requests are granted. Caps on compensatory time will result in more overtime costs as members cash in their comp-time in order to stay in compliance.

In regards to this recommendation, during the upcoming negotiations the following need to be priorities:

Rewrite the vague contract language so that “caps” on compensatory are limiting and their interpretations are very clear. Negotiate the removal of all secondary and discretionary leaves from the contract. Future contract language should not allow additional leave requests after primary leave requests are submitted.

Revise contract language so daily quotas are fixed and manageable. Explore returning to the previous method used to establish allowable daily and monthly quotas based on requested tours off instead of the current fixed quota. This may tend to flatten spikes in leave usage by spreading leaves throughout the entire year.

There should be no additional requests honored for days that have reached the daily quota. This should allow for a more even distribution of overtime and an increased ability to avoid excessive overtime (spikes).

Audit Follow-up Status of Recommendation: See *Audit Follow-up Status of Recommendation 8*.

Recommendation 10: Require doctor approval for sick leave use on weekends and holidays. As discussed in Recommendation 3, sick leave usage is not distributed evenly throughout the week and is highest on Saturdays. The three highest days of sick use in 2004 were Saturdays, and nine of the top 20 days were a Saturday or Sunday. Similarly, some holidays have unusually high use of sick leave, causing a large amount of overtime.

In previous contracts, the division head could require a physician's certificate to confirm sick leave. The most recent contract limits this requirement to those fire fighters with more than three instances of sick leave in a twelve-month period. Requiring approval from a city-specified physician helps prevent abuse of sick leave. A provision requiring physician approval for illnesses should be returned to the next contract. The Fire Department could then implement a policy requiring doctor approval for sick absences on the weekends, holidays, and the day before and after holidays. This policy would help prevent excessive overtime caused by large, unscheduled absences on particular days of the year.

Fire Department response: The Fire Department agrees with this recommendation. The use of a city-approved and sponsored health care professional (such as Good Samaritan Hospital's Fast Track clinic) for all sick leave requests on weekends, holidays, the days before holidays, the days after holidays, and after business hours should be considered an integral part of a program to control sick leave. Such office visits would need to occur on the very day of the illness. There also needs to be administrative ramifications for employees with patterned usage and obvious sick leave abuse. This two-pronged approach will likely do much to control suspect sick leave requests. The Fire Department can't implement this recommendation unless it receives budgetary support to provide the recommendation.

When the new contract is negotiated, make it mandatory that employees reporting in as sick must remain at home until seen by the Duty Chief or his designee unless the employee leaves to seek the care of a qualified health care provider (MD office or ER visit only).

Audit Follow-up Status of Recommendation: *In the current labor agreement, under section 28.5 and 28.10, it discusses SWP leave and when a physician's note is required. Under Section 28.5 it explains that a member with three or more instances or greater than 96 hours of sick leave usage (SWP and/or SWP-F) within a rolling twelve month period shall be required to provide a physician's verification of injury or illness. In Section 28.10 it discusses sick with pay abuse, and if an employee who has requested and been denied comp time, vacation or holiday leave, and who call in sick for the day for which the leave was denied, shall be required to provide a physician's verification of injury or illness.*

The Fire Department does not have a policy in place requiring doctor approval for sick absences on the weekends, holidays, and the day before and after the holidays. However, as mentioned above, in their contract, if a firefighter has three instances or 96 hours of sick leave they are required to bring in a physicians note.

Recommendations for Additional Savings

In the course of the audit, we identified two specific measures to limit overtime use and create additional savings.

Recommendation 11: Use 40-hour staff members to fill partial overtime when they need training. Uniformed staff members who are not district chiefs are required to have 10 hours of training in the field per quarter or 40 hours annually. At present, these fire fighters typically work their training time on a fully staffed truck. Rather than have these fire fighters serve as an extra member of the unit during their training, they could be used to fill partial overtime vacancies. If 40 fire fighters spent their 40 annual training hours filling in for partial overtime that could save the City a maximum of \$64,000. Given scheduling challenges and the priority of the fire fighter's regular duties, not every ride along can be used to cover part of an overtime absence. Nonetheless, the Department would realize some savings by implementing this practice whenever it is feasible. Since Wednesday and Friday have the highest average weekday overtime, planning field training on those days would raise the likelihood that this practice could help limit overtime.

Fire Department response: The Fire Department fundamentally agrees that a better utilization of 40-hour members' ride/training time on fire companies to avoid some overtime is possible. However, it is virtually impossible to establish a one-to-one relationship between our overtime needs and their availability to provide "fill ins" to avoid overtime. All 40-hour staff members are, unquestionably, mission-critical and should be used very sparingly to primarily staff fire companies.

The Operations Bureau will coordinate the scheduling of ride times with the other bureau chiefs. All the Bureau Chiefs will be responsible for the implementation for their respective assigned uniformed personnel. The Fire Chief will provide continuous oversight. This recommendation could be implemented by mid-February 2005.

***Audit Follow-up Status of Recommendation:** The Fire Department now uses 40-hour staff members to fill partial overtime when they need training to avoid overtime. In addition, the Operations Bureau coordinates the scheduling of ride times with the other Bureau Chiefs.*

Recommendation 12: Allow three-man staffing for shift holdovers. When a new tour begins, fire fighters are occasionally dispatched from another fire house to fill a vacant position on the truck to meet contractual requirements to have four staff members in each suppression unit. As that person travels between houses, one fire fighter is currently being held over until the replacement arrives. The held over fire fighter earns one hour of overtime regardless of how long he actually waits to be relieved. The contract generally requires four person companies in each fire suppression unit, but states that specific application of this rule is set out in a "Letter of Intent." This letter, which went into effect November 29, 1998, states that "during unanticipated emergencies, the Cincinnati Fire Division may be precluded from maintaining four persons on each company for a portion of a tour. Therefore, if necessary for the effective operation of the Cincinnati Fire Division, fire companies may continue to operate with three persons for a period of up to six hours per tour." The Fire Department believes that by the terms of this agreement, it is permitted to have fire fighters on a truck for the less than one hour required for a

substitute to arrive. In 2003, the department had 1,213 such holdovers. Approximately 90% of fire fighters chose to take their compensation as comp time, generating about 1600 accrued comp time hours worth \$42,500. In addition to this, the Department also paid out \$5,370 to those who chose to be compensated in cash. Thus, eliminating shift holdovers could prevent around \$48,000 of overtime and compensatory time expenses.

Fire Department response: The Fire Department agrees with this recommendation. This practice implemented by the former Safety Director after Local 48 presented a grievance about this topic. Consequently, it became an institutional practice by his mandate. However, it became part of contract through vague language in a side letter. This matter could be resolved if all side letters were abolished under the next contract.

This matter is liable to produce a great deal of political acrimony with little real return. This item should be clarified in the next contract.

Audit Follow-up Status of Recommendation: *The policy for three men staffing for shift holdovers has changed. The Fire Department only uses holdovers for unplanned leaves such as SWP, AWOL, tardy and emergencies. They do not use holdovers for trades, training, personal equipment repairs and routine redeployments of personnel.*